IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.6896 of 2004

Digambar Motiram Jadhav ..Petitioner

vs

The Commissioner and ors...Respondents

Mr C.G.Gavnekar for petitioner

Mr. S.M.Sabrad for respondent no.l

Mr. P.M.Patil AGP for State

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 9.l2.2004

P.C:

Heard advocates.

2. The petitioner is the owner of S.No.226/2 situated within the Malegaon Municipal Council. In the first revised Development Plan which was sanctioned on l.4.l986, petitioner’s land came to be reserved for Police Station and Police Quarters. The petitioner served purchase notice under section l27 of the Maharashtra Regional and Town Planning Act, l966, hereinafter referred to as the "MRTP Act" on the appropriate authority i.e. Superintendent of Police on l5.4.l996. By letter dated 24.4.l996 the Assistant Director of Town Planning called upon the petitioner to submit authenticated site plan and informed that unless

site plan is furnished notice would be treated as not valid. The petitioner complied with the said communication and submitted the site plan. Thereafter a notification under section l26(2) of the MRTP Act read with section 6 of the Land Acquisition Act,l894 was issued on 6.2.l999. The grievance of the petitioner is that though notification under section l26(2) of the MRTP Act read section 6 of the Land Acquisition Act was issued no award was passed within a reasonable time and, therefore, the reservation must be deemed to have lapsed.

3. We called for the original files from the SLAO. It appears that the Appropriate Authority submitted a proposal to the Collector for acquisition of land even prior to the issuance of purchase notice dated l5.4.l996. The Collector, however, could not act upon the proposal as the site plan was not furnished and the exact area to acquired was not identified. After the site plan was received from the petitioner a fresh proposal for acquisition was made by the Appropriate Authority to the Collector, Nasik vide letter dated l8.7.l996 i.e. within six months from the date of the receipt of purchase notice. It is also seen from the papers that the SLAO has made the award on 25.l.2002. However, it

seems that the compensation has not been paid to the petitioner as the funds are not made available by the State Government.

4. Mr.Gavnekar, learned counsel appearing for the petitioner relying upon the observations made by the Division Bench of this court in M/s Kolte Patil Developers Ltd vs. The State of Maharashtra and ors in Writ Petition No.3543 of 200l decided on 27.8.2004, argued that even assuming that making of an application under section l26(l)(c) of the MRTP Act is a step within the meaning of section l26 in acquisition proceedings as contemplated under sections l26 and l27 which should be completed within a reasonable time. He submitted that the Division Bench has referred this issue in M/s Kolte Patil Developers Ltd's case (supra) to the Full Bench.

5. We have gone through the order of reference and we find that in the case of M/s Kolte Patil Developers Ltd's case awarded was not made even after expiry of period of 4 years, whereas in the present case award is already made and since award was made within reasonable time, more so, when the land is required by the police department for setting up a police station. We are therefore of

the view that this is not a fit case for exercising writ jurisdiction under Art 226 and we dismiss the petition with a direction to the State Government to release the amount of compensation to the petitioner within a period of eight weeks from today.

Certified copy expedited.